

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1049 – SB 999

February 1, 2016

SUMMARY OF ORIGINAL BILL: Enacts the Tennessee Choice and Opportunity Scholarship Act. Authorizes eligible students to apply for and receive scholarships to attend participating non-public schools. Requires students to meet certain eligibility requirements including, but not limited to, being zoned for or currently attending a school that is identified as being in the bottom five percent of schools in overall achievement data and meeting certain age and income requirements. Requires non-public schools to provide annual notice to the Department of Education (DOE) of their intent to participate and to comply with all other participation requirements.

Requires the DOE to administer the program, and sets forth specific departmental administrative tasks including, but not limited to, providing annual notice of students' eligibility to parents; determining and approving initial and continuing eligibility for participating schools; and remitting scholarship payments to participating schools. Authorizes scholarship students to enroll in another participating school without loss of eligibility, if a participating school is deemed ineligible. Sets forth the procedures that shall be followed if the number of eligible students exceeds the number of scholarships awarded at a specific school for a specific grade level, and if there are scholarships available after all possible matches have been made between participating schools and eligible students.

Requires the annual scholarship amount to be the lesser of the participating school's annual tuition and fees or the amount of the required state and local Basic Education Program (BEP) funding per pupil. Requires students receiving the scholarship to continue to be counted toward the average daily membership (ADM) of the local education agency (LEA). Requires LEAs to continue to fund their portion of the required BEP per pupil expenditure (PPE) for participating students. Authorizes LEAs to retain any local funding above and beyond the BEP local match requirement. Requires any remaining funds to be retained by the DOE and the LEA, with specific amounts based on the LEA's state and local BEP funding share division, if a participating school's tuition and fees are less than the required state and local BEP per pupil expenditure (PPE).

Caps the scholarship program for LEAs with a school that is in the bottom five percent of achievement at 5,000 scholarships for FY15-16; 7,500 scholarships in FY16-17; and 10,000 scholarships in FY17-18; and 20,000 scholarships in FY18-19 and subsequent fiscal years.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$185,000

Other Fiscal Impact – For local education agencies that have schools in the bottom five percent of achievement and are mandated to participate in the statewide scholarship program, the shift of state and required local BEP funding from these local education agencies to the non-public participating schools is estimated as follows: \$16,570,000 in FY15-16; \$25,473,800 in FY16-17; \$34,815,000 in FY17-18; and an amount exceeding \$69,630,000 in FY18-19 and subsequent years.

SUMMARY OF AMENDMENTS (005665, 011699, 010712):

Amendment 005665 amends various parts of Section 1 of the original bill. Changes the effective date of the bill to January 1, 2016. Caps the scholarship program for LEAs with a school that is in the bottom five percent of achievement at 5,000 scholarships for FY16-17; 7,500 scholarships in FY17-18; and 10,000 scholarships in FY18-19; and 20,000 scholarships in FY19-20 and subsequent fiscal years. Prohibits the State Board of Education from promulgating any emergency rule relative to the implementation of the bill prior to August 1, 2016.

Amendment 011699 adds language to Section 1 of the bill. Prohibits participating schools from teaching the following: that any sacred or secular law is above the Constitution of the United States or the Constitution of the State of Tennessee; that females are not equal to males; and that suppression of free speech is acceptable when invoking blasphemy. Requires participating schools to submit annual reports to the Department of Education and State Board of Education certifying compliance with the above requirements. Requires a school found out of compliance to reimburse the state for the scholarship funds that it has received.

Amendment 010712 changes the effective date from January 1, 2016 to being effective upon becoming law.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Expenditures - \$185,000

Other Fiscal Impact – For local education agencies that have schools in the bottom five percent of achievement and are mandated to participate in the statewide scholarship program, the shift of state and required local BEP funding from these local education agencies to the non-public participating schools is estimated as follows: \$16,982,500 in FY16-17; \$26,111,250 in FY17-18; \$35,685,000 in FY18-19; and an amount exceeding \$71,370,000 in FY19-20 and subsequent years.

Assumptions relative to state expenditures:

- DOE will require two new positions to administer the program beginning in FY16-17. One position will require a salary of \$80,000 with benefits of \$19,356 for a total of \$99,356. A second position will require a salary of \$60,000 with benefits of \$14,652 for a total of \$74,652.
- An additional increase in state expenditures of \$11,000 for travel, administrative costs, printing, and other expenses.
- The total recurring increase in state expenditures for personnel is estimated to be \$185,008 (\$99,356 + \$74,652 + \$11,000).
- The DOE and SBE will certify that participating schools are meeting all requirements using personnel that will be hired to administer this program. Any increase in state expenditures is estimated to be not significant.

Assumptions relative to enrollment, scholarship amounts, and program estimates:

- The statewide scholarship program will begin in the fall of 2016.
- Though the exact number of annually participating students is unknown, it is reasonably estimated that a minimum of 50 percent of the cap for the statewide program will be filled each year, beginning in FY16-17.
- For the purposes of this fiscal note, the required state and local BEP expenditures are utilized as the scholarship amount with an estimated scholarship growth of 2.5% annually.
- Statewide Program Student Enrollment Estimates:
 - In FY16-17, an estimated 2,500 students will participate.
 - In FY17-18, an estimated 3,750 students will participate.
 - In FY18-19, an estimated 5,000 students will participate.
 - In FY19-20 and subsequent years, over 10,000 students will participate.
- Statewide Program Scholarship Estimates:
 - In FY16-17, the scholarship is estimated to be \$6,793 per pupil.
 - In FY17-18, the scholarship is estimated to be \$6,963 per pupil.
 - In FY18-19, the scholarship is estimated to be \$7,137 per pupil.
 - In FY19-20 and subsequent years, the scholarship amount is estimated to exceed \$7,137.
- Total Statewide Program Estimates:
 - In FY16-17, an estimated \$16,982,500 ($\$6,793 \times 2,500$) will shift from LEAs to participating schools.
 - In FY17-18, an estimated \$26,111,250 ($\$6,963 \times 3,750$) will shift from LEAs to participating schools.
 - In FY18-19, an estimated \$35,685,000 ($\$7,137 \times 5,000$) will shift from LEAs to participating schools.
 - In FY19-20 and subsequent years, an amount estimated to exceed \$71,370,000 ($\$7,137 \times 10,000$) will shift from LEAs to participating schools.

Assumptions Relative to LEA Fund Retention and expenditures:

- The BEP maintenance of effort requires that local government continue to fund their LEA at the same level year-to-year unless there is a decrease in enrollment.
- Participating students will continue to be counted in LEA enrollment numbers, and LEAs will be required to continue providing funding based on the enrollment numbers that include participating students.
- A majority of LEAs are currently funding their students above and beyond the BEP local match requirement. This amount varies widely by LEA, but based on FY15-16, the average amount that LEAs will retain in FY16-17 is \$1,160 per pupil. This amount is estimated to increase at an average growth rate of 2.5% annually in each subsequent year.
- Each year, students leave and enter LEAs. As a result, LEAs adjust expenditures, teachers, facilities, and other items to meet the change in student population.
- LEAs will be able to use retained funding to offset any increase in local government expenditures or to use at their discretion for some other purpose.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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